

ESTTA Tracking number: **ESTTA729121**

Filing date: **02/24/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Chatam International Incorporated
Granted to Date of previous extension	02/24/2016
Address	1105 N. Market Street, Suite 1300 Wilmington, DE 19801 UNITED STATES
Attorney information	Paul M. Lewis, Esquire 2633 Trenton Avenue Philadelphia, PA 19125 UNITED STATES plewis@jacquins.com

Applicant Information

Application No	86557738	Publication date	10/27/2015
Opposition Filing Date	02/24/2016	Opposition Period Ends	02/24/2016
Applicant	Catawba Valley Brewing Company 212 S. Green Street Morganton, NC 28655 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 2013/03/08 First Use In Commerce: 2013/03/08
All goods and services in the class are opposed, namely: Beer

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2103842	Application Date	03/29/1995
Registration Date	10/07/1997	Foreign Priority Date	NONE
Word Mark	HOT SEX		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 033. First use: First Use: 1997/06/26 First Use In Commerce: 1997/06/26 mixed drink consisting of ginger liqueur and chocolate
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Attachments	opposition against le sexyy.pdf(756255 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/paul m. lewis/
Name	Paul M. Lewis, Esquire
Date	02/24/2016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Chatam International Incorporated)	Opposition No. _____
)	
Opposer)	
v.)	
)	
Catawba Valley Brewing Company)	Mark: LE SEXXXY
)	Serial No. 86557738
Applicant)	

NOTICE OF OPPOSITION

Opposer, Chatam International Incorporated, believes it will be damaged by the registration of the mark shown in trademark application Serial No. 86557738 for LE SEXXXY and hereby opposes the same.

1. Opposer, since June 26, 1997, has used and is now using in commerce the trademark HOT SEX. Said mark of Opposer is symbolic of goodwill and consumer recognition built up by Opposer's continuous use for more than 18 years.

2. Opposer is the owner of U.S. Trademark Registration No. 2103842 issued October 7, 1997 for HOT SEX in Class 33 for mixed drink consisting of ginger liqueur and chocolate. Opposer will rely herein upon said U.S. Trademark Registration and the common law rights associated with use of the mark.

3. On March 9, 2015, Applicant, Catawba Valley Brewing Company, filed a trademark application for LE SEXXXY in Class 32 for beer citing a first date of use on March 8, 2013, which said application was assigned Serial No. 86557738.

4. On October 27, 2015, Applicant's trademark application Serial No. 86557738 for LE SEXXXY was published for opposition purposes.

5. Opposer believes it will be damaged by the registration of Applicant's mark LE SEXXXY in that the mark makes a confusing, similar commercial impression to Opposer's mark HOT SEX. Applicant's mark will be used in connection with goods that are likely to be sold through the same or commercially related channels of trade to the same or overlapping class of purchasers.

6. Based on the similar nature of the marks and the goods in issue, as well as the likely overlap in the channels of trade, the public is likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's goods marketed under LE SEXXXY and misled into believing such goods are produced by, emanate from, or are in some way directly or indirectly associated with Opposer, or that there exists some affiliation or relationship between Applicant and Opposer.

7. Based on the similar nature of the marks and the goods in issue, as well as the likely overlap in the channels of trade, issuance of a registration for LE SEXXXY will likely cause confusion of the trade and public resulting in damage and injury to Opposer.

8. Based on the similar nature in commercial impression between Opposer's mark and Applicant's mark, Opposer believes that a likelihood of confusion will exist and Opposer will subsequently suffer damage and injury by the use and registration of Applicant's mark.

9. For all the above reasons, the issuance of registration to Applicant for the mark LE SEXXXY and any use of the mark LE SEXXXY or any variation thereof on or in connection with alcoholic beverages, including beers, is likely to cause confusion, or to cause mistake, or to deceive the public, or to cause the public to believe that the goods sold under LE SEXXXY or any variation thereof emanate from or are otherwise sponsored or endorsed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. 1052(d).

10. If Applicant is granted a registration for the mark LE SEXXXY, it would obtain thereby at least a prima facie exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer, Opposer's customers and the general public.

WHEREFORE, Opposer prays that said application Serial No. 86557738 for the mark LE SEXXXY is rejected, and that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Opposer certifies that on this same day this Notice of Opposition was served on Applicant's attorney of record by overnight courier to the correspondence address of record as maintained by the Trademark Office.

Respectfully submitted,

Dated: 24 February 2016

By: /paul m. lewis/
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Attorney for Chatam International Incorporated

CERTIFICATE OF SERVICE

This certifies that the foregoing Notice of Opposition was served on Applicant's attorney of record by overnight courier to the correspondence address of record as maintained by the Trademark Office, this 24th day of February, 2016, as follows:

Angela P. Doughty
Ward and Smith P.A.
1001 College Court
New Bern, NC 28563-0867

_____/paul m. lewis/_____